

ORIGINAL

Decision No. 87364 May 24, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILLIAM P. and MARIE R. BUTRICA,)
et al.,)

Complainants,)

vs.)

DARRELL J. and RUTH E. BEASLEY,)
dba PHILLIPSVILLE WATER CO.,)

Defendants.)

Case No. 10129
(Filed June 23, 1976)

William P. Butrica, Marie R. Butrica, and
Sidney Anderson, for themselves,
complainants.

Leon Kos, Attorney at Law, for defendants.
Leslie D. Hay, for the Commission staff.

O P I N I O N

The complaint alleges that defendants disconnected a well from the water system; that the well is the principal and only reliable water supply; that it was removed without explanation other than a statement that "the well is no longer available"; and that the well has been a part of defendants' public utility water supply for many years. The complaint further alleges that three fire hydrants were removed from service which were partially paid for by customers; also that defendants have refused to install meters on a customer's property line and placed them at locations within the customer's premises favored by defendants; it is alleged that the system does not comply with the minimum requirements of Public Utilities Commission General Order No. 103, since mains are undersized and do not have the required 30 inches of cover.

Complainants request that defendants be ordered to place the well - or an equivalent source of supply - back in service, and that the Commission investigate defendants' water system. Defendants filed a form answer on July 23, 1976, which denied the basic allegations of the complaint and alleged that "as of April 1, 1976, they no longer have a contract for the use of the real property of Ellen B. Murray - to take water from that property". A public hearing was held in Garberville, on November 16 and 17, 1976, before Examiner Fraser. Evidence and testimony were provided by complainants, defendants, the prior owner of the utility, and numerous customers who either testified or made statements for the record. A staff engineer testified, distributed copies of his report to all who were present, and placed it in evidence.

The System

The system serves an unincorporated area known as Phillipsville, located approximately 9 miles north of Garberville in Humboldt County, California. There are 51 meters and 11 flat rate customers. Nine users are located in the hills directly under 3 reservoirs which provide first choice of whatever water is available. Included among these favored customers are the present and former owners of the system. The remaining customers live in the flat next to the river in an area designated as the town system.

There are 5 redwood reservoirs at various locations within the system. Their capacities are 500, 1,000, 1,000, 10,000, and 60,000 gallons, respectively. The piping for each of the 3 small reservoirs is arranged in such a manner that the hill customers are served from outlets at the bottom of the tanks. The town system is connected by pipes at the top of each tank, which only pick up water when the tanks are full. The 10,000-gallon tank provides storage for the town part of the system. It is in poor

condition and is leaking, in spite of reinforcing by wooden shims and concrete. The 60,000-gallon tank is not in use at the present time. It leaks due to dry rot along the baseline and damage caused by a falling tree. It was recommended that a plastic liner be installed to place this tank back on the system. Water requirements vary between 124 to 310 gallons per minute depending on the diversity of customer usage. The 10,000-gallon tank will provide a flow of only 41.6 gallons per minute over a 4-hour period (10,000 gallons divided by 240 minutes).

The sources of supply consist of surface water flowing from springs and from a gulch intake to the storage tanks by gravity. If water is plentiful, these sources can provide about 10,000 gallons daily. The water is not protected from contamination, and the watershed which provides the water is owned and controlled by individuals who have no interest in defendants' water system. Transmission lines range from 4 inches to 1 inch in diameter, with the greater portion laid on the surface. Some property owners have constructed homes or other buildings over the pipeline. In one instance it is buried an estimated 10 feet under dirt fill positioned to support a building. The pipes flow up and down as they follow the terrain. Air locks have occurred in surface pipes which stop the flow of water to the town system. The Commission engineer recommended that valves be placed at the points subject to air lock to eliminate the problem.

The last rate increase was authorized by the Commission on January 14, 1970. The water utility was sold to the present defendants by authority of Decision No. 78762 dated June 2, 1971 in Application No. 52347. The prior owner testified that the system had a gross operating revenue of \$3,200 in 1969, with a rate of return of 7.8 percent on a rate base of \$7,840.

Complainant Marie Butrica testified that she filed an informal complaint with the Commission after her water was shut off for seven hours on January 2, 1976; the defendants gave notice seven days in advance, but no one was available to give information or to answer questions; when she sent a check on January 6, 1976 to pay her bill, it was returned, and no one has accepted payment since; she has received no bills since January, and defendants have not been available to discuss the problem with her. Complainants and others testified that three fire hydrants have been removed from the town system and a fourth from the edge of the Beasley property, which were paid for in part by adjoining land owners. Defendant Darrell Beasley testified that two of those hydrants were removed because of serious leaks which were draining the water system and a third because of damage caused in a car accident. He also testified that he had a water valve on his property, but he has never considered or treated it as a fire hydrant.

Complainant and others testified that defendants do not send bills; two witnesses testified that meters were installed without notice, while they were away from their homes, at locations selected by Beasley. There was also testimony that defendants charged a minimum rate of \$5.00 for 800 cubic feet of water, when the authorized rate is 50 cents less. Defendant Darrell Beasley later explained this by testifying that he continued to charge the same rate that had been charged by the prior owner before the system was purchased. The owner of a laundromat, gift shop, and trailer park testified that he has been inconvenienced by frequent water outages, which damage his clothes washers and dryers. He further testified that he has not paid his bill for 16 months because his money is not accepted by defendants. The latter have refused to install a meter on the property line, preferring an

interior location which would require the witness to authorize the defendant to be on his property at all times to read or maintain the meter. This witness testified that he will not provide defendants with an easement or license to enter his property at any time. The former owner of the system testified he installed meters as the customers preferred, and the latter paid for any extra line that was necessary; he had no trouble with his customers. He testified that the well which was removed from service by defendants was a part of the water supply when the utility was transferred to the new owners. He further testified that his 500-gallon reservoir is necessary to provide some storage for his residence; if his pipe in the bottom of the tank is disconnected, or the town system is allowed to obtain water from his outlet, he will have no water at all since the town system plus gravity will keep the tank empty. He requested that the small reservoir piping be left as it is and that the water supply from the well removed by defendants be returned to the system.

Defendant Darrell Beasley testified that his entire supply of water comes from springs and that the well owner has never contributed water from the well on other than a temporary license; the well owner is now selling her property, which includes the well site; the utility has lost money every year since 1971, and the lack of income eliminates the possibility of extensive improvements. He was not given accurate information prior to purchasing the system on the complexity and complications involved in managing a city water supply; he took over operation of the system originally to keep the town functioning; he was required to remove certain valves (the fire hydrant) on his own property after a staff engineer told him the installation would have to

be rebuilt to conform with Commission General Order No. 103; he has obtained the right to divert quantities of water from an adjoining canyon, but gates have been locked, and his temporary lines have been cut. Local land owners refuse access so he can draw off water for the town system; he concluded by stating that he has been contributing labor, fuel, vehicles, tools, and his time to keep the system operating; he cannot do more, and the water supply is no worse than that of other comparative-sized, small utilities.

The staff engineer testified that defendant Darrell Beasley refused to attend an informal meeting with his customers; defendant also refused to acknowledge the rule that the customer has the right to determine where his meter will be placed. The staff engineer concluded that water outages are unnecessarily aggravated by leaks in pipes and reservoirs, lack of storage facilities, and the arbitrary removal of a source of water (the well) which has been a part of the system since it was purchased by the present owner. It was suggested that the 60,000-gallon reservoir be repaired and used; that a plastic liner be installed in the 60,000-gallon reservoir; and that present mains be replaced where necessary with four-inch or six-inch pipe. It was further suggested that defendants meter all customers and that all accounts be credited or billed, with no bills rendered for service prior to six months from the date of the request for payment. It was suggested that air release valves be installed where needed in the system and that defendants obtain written easements to authorize them or their agents to enter the property of others to maintain the system, or read the meters. The witness noted that pipelines

and storage facilities are located on property over which defendants have no control, and one promised source of water is in an adjoining valley, which is owned by others who have no interest in defendants' water system. He recommended that the pipes be changed on the small reservoirs to give the town customers the principal share of the water stored. Defendant Darrell Beasley testified that the improvements suggested by the staff would cost him an estimated \$150,000 in materials and labor. Defendant further testified that the 60,000-gallon reservoir is located above a residence, which would be washed away if the reservoir collapsed while being filled; also that it was severely damaged by a falling tree and cannot be repaired.

Discussion

Good public relations are essential when system mains and pipes extend on the surface over private property. Dissension between the parties herein has been aggravated by the water shortage, which should be alleviated by providing an additional source of water. Defendants should review their finances and consider filing an application for a rate increase. The system is losing money and some renovation is necessary. Improvements should be scheduled as money becomes available. All customers should be metered as a water conservation measure and a basis for billing and collection. In regard to the 60,000-gallon reservoir, we are in accord with the staff engineer's recommendation that the reservoir should be repaired. Proper engineering will prevent collapse.

Findings

1. Defendants provide public utility water service to 62 customers in Phillipsville, Humboldt County.
2. Nine users are favored by location and having supply outlets in the base of the three smaller reservoirs.
3. Water lines which supply the other patrons feed from the reservoir top. Water is not available unless the tank is full.

4. Water mains and extensions were laid on top of the ground when defendants purchased the system in June of 1971 and have not yet been buried.

5. The system was not constructed according to the requirements of Commission General Order No. 103. Water mains are undersized and have not been buried to a depth required for protection.

6. The largest (10,000-gallon) reservoir in use is leaking and in need of extensive repairs.

7. A 60,000-gallon reservoir needed for storage is inoperative due to extensive damage caused by a fallen tree.

8. The well on the Ellen Murray property, known as the Murray well, which was part of the utility for six years and recently constituted its principal water supply, was removed from service without the required authorization.

9. Three fire hydrants, ostensibly removed so repairs could be made, have not been replaced.

10. Defendants have charged and collected a slightly higher rate than authorized in their tariff.

11. Defendants have neglected to bill and collect for water service.

12. Defendant Darrell Beasley has installed water meters without consulting customers regarding the location of the meter or the expense of installation.

13. There has been no effort to schedule meetings with customers, or to meter the entire system as suggested by Commission staff engineers.

14. The system has experienced water outages due to air locks in some of its mains.

15. There are repairable leaks in water lines and reservoirs.

16. The promotion of customer cooperation has been negated by the arbitrary disregard of complaints, suggestions, and offers to help.

Conclusions

1. The outlets in the small reservoirs should be altered so the town system will have equal use of the available water.
2. The combination of one-inch and two-inch distribution mains which extend from the four-inch discharge line from the 10,000-gallon reservoir to the Anderson and Canady residences should be replaced with a six-inch main to be installed in roadways and over easements to lessen claims and problems.
3. The leaks in the 10,000-gallon reservoir should be repaired within 30 days, and the 60,000-gallon reservoir should be restored and returned to service as soon as sufficient money is available.
4. The well is dedicated to and is a part of defendants' public utility water supply system. The transfer of the well without authorization from this Commission was a violation of Section 851 of the Public Utilities Code and is a nullity.
5. The three removed fire hydrants should be restored to their former locations and defendants should pay all installation costs.
6. Defendants should review their billing procedures and follow their filed tariffs with respect to rates. Customers who have been overcharged should be notified and receive a credit; neglected accounts should be promptly billed, but no accounts should be charged for service prior to six months from the date of the request for payment.
7. Defendants should complete their metering program. For this system, if the customer is willing to pay all costs, he shall be permitted to select where his meter will be located.
8. Air release valves should be installed at all high points on all transmission system pipes.
9. Defendants should not be allowed to provide service to any additional customers until the 60,000-gallon reservoir is repaired, or an additional supply of water is obtained.

10. Defendants should file up-to-date rules and regulations with the Commission.

11. The staff recommendations as set forth in the following order are adopted.

O R D E R

IT IS ORDERED that:

1. Darrell J. and Ruth E. Beasley, doing business as Phillippsville Water Company, shall within thirty days after the effective date of this order:

- a. Rearrange the piping in each of the small reservoirs so water will flow unrestricted into the town system, rather than to the favored customers who now receive it.
- b. Complete the metering of customer's services and notify the Commission, in writing, when all meters have been installed.
- c. Survey all transmission mains to locate high points, install air release valves thereon, and notify the Commission within ten days that the project has been completed.
- d. Bill for past-due accounts or credit for overpayments as appropriate, but issue no bills for service rendered prior to six months from the date of the request for payment, notify the Commission within ten days of the date the bills are mailed.
- e. File up-to-date rules and regulations with the Commission.

2. Darrell J. and Ruth E. Beasley shall within ninety days of the effective date of this order:

- a. Repair all leaks in transmission lines and the 10,000-gallon reservoir.
- b. Obtain and place in operation an additional source of supply with a continuous capability of not less than 75 gallons per minute and notify the Commission, in writing, within ten days thereafter.

- c. Reinstall at their own cost the fire hydrants which were removed subsequent to the staff's March 1976 investigation, at or near the former locations, and notify the Commission, in writing, within ten days of the installation.
- d. Replace the combination of one-inch and two-inch distribution mains, which extend from the four-inch discharge line from the 10,000-gallon reservoir to the Anderson and Canady residences, with a six-inch or larger main, to be installed in roadways or right-of-way protected by easement; and notify the Commission, in writing, within ten days of replacing the mains.
- e. Provide the Commission with an itemized list of costs involved in restoring the 60,000-gallon reservoir to service and an estimate of when the necessary repair work will be started.

3. Defendants shall serve no additional customers until the 60,000-gallon reservoir is repaired and in use, or an additional source of supply is obtained which produces a minimum of 75 gallons of water per minute.

4. Defendants shall transfer and connect the (Murray) well to their public utility water system forthwith, and Darrell Beasley shall inform this Commission within ten days after the transfer.

The effective date of this order shall be ~~twenty days~~ ^{thirty} after the date hereof.

Dated at Los Angeles, California, this 24th day of MAY, 1977.

William J. Spence Jr.
President
Vernon L. Lutz
Richard D. Thorne

Commissioners

Commissioner Robert Batinevich, being necessarily absent, did not participate in the disposition of this proceeding.